

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

PERMANENT ADDITION OF USPS CONNECT
LOCAL MAIL TO THE MARKET DOMINANT
PRODUCT LIST

Docket No. MC2023-12

REPLY COMMENTS OF THE UNITED STATES POSTAL SERVICE
(December 23, 2022)

As part of its request to make USPS Connect Local Mail a permanent product, the Postal Service proposes acceptable payment methods, including Click-N-Ship and the USPS API.¹ Under 39 U.S.C. § 404(a)(2), the Postal Service is authorized “to prescribe...the amount of postage and the manner in which it is to be paid.” On December 9, 2022, the Postal Regulatory Commission posted five sets of comments on Docket No. MC2023-12 from the National Association of Presort Mailers (NAPM), the National Postal Policy Council (NPPC), the Package Shippers Association (PSA), the Association for Postal Commerce (PostCom), and Pitney Bowes Inc. (Pitney Bowes). Each of these comments alleges that the Postal Service’s decision to accept payments through Click-N-Ship and the USPS API creates an unfair competitive advantage for the Postal Service in violation of 39 U.S.C. § 404(a)(1).² These claims must fail for two reasons. As an initial matter, the commenters’ arguments presume that private providers of postage evidencing services are Postal Service competitors for purposes of

¹ Docket No. MC2023-12, United States Postal Service Revised Request to Convert USPS Connect Local Mail to a Permanent Offering, November 9, 2022 at 2.

² See Docket No. MC2023-12, Comments of the National Association of Presort Mailers, December 9, 2022 (NAPM Comments) at 3; Comments of the National Postal Policy Council, December 9, 2022 (NPPC Comments) at 5; Comments of the Package Shippers Association, December 9, 2022 (PSA Comments) at 1; Comments of the Association for Postal Commerce, December 9, 2022 (PostCom Comments) at 3; and Comments of Pitney Bowes Inc., December 9, 2022 (Pitney Bowes Comments) at 1.

§ 404a(a)(1) – they are not. Moreover, and irrespective of whether the commentors are competitors with the Postal Service for this purpose, the Postal Service’s choice of payment methods does not create an unfair competitive advantage within the meaning of the provision.

Private Postage Evidencing Services Are Not Postal Service Competitors for purposes of § 404a(a)(1)

Section 404a(a)(1) was intended to prevent the Postal Service from using its governmental authority to prohibit or inappropriately limit competition in the markets in which the Postal Service competes.³ However, as a threshold matter, the conduct about which the commentors complain is not the type of conduct that the statute was intended to prevent. To the contrary, as Pitney Bowes correctly states, “The postage evidencing services offered by companies like Pitney Bowes are complements of mail products offered by the Postal Service.”⁴ Likewise, NAPM concedes that its “members act as the ‘facilitators’ that enable businesses to use USPS’ products and services easier and cheaper.”⁵ Indeed, the Postal Service views these businesses as intermediary partners who facilitate the sale of postal products and the entry of mail into the postal network by helping *our* customers procure postage labels. Ultimately, however, the Postal Service remains the primary beneficiary of the products sold through this intermediary relationship. These providers do not compete with the Postal Service for mailing or shipping customers. Rather, they provide a service that is complementary to the mailing and shipping services provided by the Postal Service –

³ Docket No. RM2013-4, Notice of Proposed Rulemaking Establishing Rules Pursuant to 39 U.S.C. 404a, June 5, 2013 at 5.

⁴ Pitney Bowes Comments at 3.

⁵ NAPM Comments at 1.

they sell *our* products and services. As the Commission correctly identified in Order No. 5550, the “financial benefits of all forms of personalized postage accrue to the Postal Service for any postage offering...”⁶ And as the Commission further explained “the Postal Service cannot create an unfair competitive advantage against itself.”⁷ Put another way, the Postal Service cannot create an unfair competitive advantage against entities with which it does not actually compete. These entities enable customers to utilize postal products on behalf of the Postal Service. To say that the Postal Service competes against these entities simply because it likewise enables access to its own products is illogical.

Commenters on Docket No. MC2023-12 either presume alternate postage evidencing providers are competitors or that § 404a(a)(1) covers complementary services that do not exist independently from the services they complement. For instance, NAPM’s comments state: “The purpose of Sec. 404a is to prevent the Postal Service from abusing its governmental status, its legal monopoly, and its regulatory authority to create for itself an unfair competitive advantage relative to private firms that offer complementary or competitive services.”⁸ The PSA and Pitney Bowes likewise claim that the Postal Service may not use its position as a government entity to “create for itself an unfair competitive advantage relative to private firms that offer complementary services.”⁹ These characterizations, are not supported by the language of § 404a(a)(1), which has not been shown to extend to complementary services that

⁶ Docket No. MC2020-126, Order Approving Removal of Customized Postage from Mail Classification Schedule, June 16, 2020 at 5 (Order No. 5550).

⁷ *Id.*

⁸ NAPM Comments at 3.

⁹ PSA Comments at 1; Pitney Bowes Comments at 3.

simply facilitate payment for a postal service.¹⁰

The Proposed Payment Methods Are Not Unfair

That said, the Commission need not address the specific interpretive issue above in order to resolve this docket, because even if commenters could be considered competitors under § 404a(a)(1), the Postal Service's choice of payment methods for USPS Connect Local Mail does not violate the substantive limitations of § 404a(a)(1). Requiring payment through Click-N-Ship or the USPS API is a result of side-by-side development of this new service offering with the USPS Connect Local offering for packages. The Postal Service's experience with that product has shown that these payment methods are currently the only way to offer the quality of customer experience intended by the Postal Service. Specifically, Click-N-Ship and the USPS API inform customers of the drop-off location they need to use to receive the USPS Connect Local Mail rate (since customers are responsible for dropping off each piece at the designated entry unit serving the destination address). This decision to limit the payment methods in this fashion at this time, which is well within the Postal Service's business judgment to develop new service offerings that are intended to provide a specific customer experience, does not preclude or establish the terms of competition. Instead, it occurs within the context of the competitive terms already established by a market in which customers are seeking streamlined same-day and next-day local delivery options. The commenters' underlying suggestion is that, because additional payment options are available for other Postal Service products (albeit with less functionality), not offering those same options here creates an unfair advantage. It does not. Instead, it reflects

¹⁰ See Order No. 5550 at 5-6.

the Postal Service's reasonable judgment concerning the customer experience that it wishes customers to have, as well as fact that those other payment options simply do not have the functionality required for this product to achieve its intended objectives. Such an exercise of business judgement regarding the Postal Service's product portfolio does not constitute the use of the Postal Service's governmental authority to inhibit competition, much less create an *unfair* competitive advantage. Indeed, the Postal Service's choice to exclusively offer Click-N-Ship for its corresponding package offering, USPS Connect Local, was not contested when the Postal Service added it as a new price category under Parcel Select.

In addition, commenters cited the Postal Service's response in Docket No. MT2022-1 and claimed the Postal Service had an obligation to expand payment options before applying for permanent product status. In its response to Chairman's Information Request No. 3, the Postal Service stated that it would "consider broadening payment options."¹¹ The PSA alleges that the Postal Service failed to satisfactorily explore expanded payment channels during the market test.¹² Commentary on this point ignores the fact that the Postal Service has already expanded payment options during the market test. Initially, the Postal Service only offered Click-N-Ship as a payment method for USPS Connect Local Mail. Since the start of the market test, the Postal Service developed the API to allow mailers another choice of payment method. As noted above, the Postal Service considers that the current payment options best ensure that this new offering provides the intended customer experience. It is also worth noting

¹¹ Docket No. MT2022-1, Response of the United States Postal Service to Chairman's Information Request No. 3, December 14, 2021 at 5.

¹² PSA Comments at 3.

that USPS Connect Local Mail will continue to develop once it is offered as a permanent product, and the Postal Service is committed to considering and addressing new use cases and market opportunities for USPS Connect Local Mail as they arise.

Finally, the Postal Service would like to reiterate that registration for Click-N-Ship is available to any mailer. NAPM remarked that “the USPS’ Click-N-Ship system creates a barrier to customer participation.”¹³ As the Postal Service confirmed in Docket No. MT2022-1, “anyone with a computer and internet access can register for and access Click-N-Ship.”¹⁴ The Postal Service has an interest in broad acceptance and adoption of USPS Connect Local Mail and believes that Click-N-Ship presents a widely available and convenient option for customers. As mentioned above, the Postal Service has also developed an API in response to customer requests. Whether to expand to additional payment methods is a matter solidly within the business judgment of the Postal Service.

For the reasons detailed above, the Commission should reject commenters’ arguments challenging the Postal Service’s discretion to determine the payment methods for USPS Connect Local Mail.

¹³ NAPM Comments at 3.

¹⁴ Docket No. MT2022-1, Response of the United States Postal Service to Chairman’s Information Request No. 3, December 14, 2021 at 5.

Respectfully submitted,

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